

Appendix B

1. IRS Form 8586 – Low-Income Housing Credit
2. IRS Form 8609 – Low-Income Housing Credit Allocation Certification
3. IRS Form 8611 – Recapture of Low-Income Housing Credit
4. IRS Form 8693 – Low-Income Housing Credit Disposition Bond
5. IRS Form 8823 – Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition
6. IRS Form 8877 – Request for Waiver of Annual Income Recertification

Low-Income Housing Credit

► Attach to your tax return.

OMB No. 1545-0984

Attachment
Sequence No. **36a**

Name(s) shown on return

Identifying number

1	Number of Forms 8609-A attached ►		
2	Has there been a decrease in the qualified basis of any buildings since the close of the preceding tax year? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter the building identification numbers (BINs) of the buildings that had a decreased basis. If you need more space, attach a schedule. (i) (ii) (iii) (iv)		
3	Current year credit from attached Form(s) 8609-A (see instructions)	3	
4	Low-income housing credit from partnerships, S corporations, estates, and trusts	4	
5	Add lines 3 and 4. Estates and trusts, go to line 6; partnerships and S corporations, report this amount on Schedule K; all others, report this amount on the applicable line of Form 3800 (e.g., line 1e of the 2006 Form 3800)	5	
6	Amount allocated to beneficiaries of the estate or trust (see instructions)	6	
7	Estates and trusts. Subtract line 6 from line 5. Report this amount on the applicable line of Form 3800 (e.g., line 1e of the 2006 Form 3800)	7	

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

- The tax liability limit is no longer figured on this form; instead, it must be figured on Form 3800, General Business Credit.
- Taxpayers that are not partnerships, S corporations, estates, or trusts, and whose only source of this credit is from those pass-through entities, are not required to complete or file this form. Instead, they can report this credit directly on line 1e of Form 3800.
- The IRS will revise this December 2006 version of the form only when necessary. Continue to use this version for tax years beginning after 2005 until a new revision is issued.

Purpose of Form

Use Form 8586 to claim the low-income housing credit. This general business credit is allowed for each new qualified low-income building placed in service after 1986. Generally, it is taken over a 10-year credit period.

Qualified Low-Income Housing Project

The credit cannot exceed the amount allocated to the building. See section 42(h)(1) for details.

The low-income housing credit can only be claimed for residential rental buildings in low-income housing projects that meet one of the minimum set-aside tests. For details, see the instructions for Form 8609, Part II, line 10c.

Except for buildings financed with certain tax-exempt bonds, you may not take a low-income housing credit on a building if it has not received an allocation from the housing credit agency. No allocation is needed when 50% or more of the aggregate basis of the building and the land on which the building is located is financed with certain tax-exempt bonds issued after 1989 for buildings placed in service after 1989. The owner still must get a Form 8609 from the appropriate housing credit agency (with the applicable items completed, including an assigned BIN). "Land on which the building is located" includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii)).

Recapture of Credit

There is a 15-year compliance period during which the residential rental building must continue to meet certain requirements. If, as of the close of any tax year in this period, there is a reduction in the qualified basis of the building from the previous year, you may have to recapture a part of the credit you have taken. Similarly, you may have to recapture part of the credits taken in previous years upon certain dispositions of the building or interests therein. If you must recapture credits, use Form 8611, Recapture of Low-Income Housing Credit. See section 42(j) for details.

Recordkeeping

Keep a copy of this Form 8586 together with all Forms 8609, Schedules A (Form 8609) (and successor Forms 8609-A), and Forms 8611 for 3 years after the 15-year compliance period ends.

Specific Instructions

Line 2. A decrease in qualified basis will result in recapture if the qualified basis at the close of the tax year is less than the qualified basis at the close of the first year of the credit period.

If the reduction in qualified basis at the close of the tax year also results in a violation of the minimum set-aside requirement, then no credit is allowable for the year.

Line 3. The credit for the year is figured on Form 8609-A for each building. Attach a copy of each Form 8609-A you completed for the tax year to Form 8586. Enter on line 3 the total credit from attached Form(s) 8609-A.

Line 6. Allocate the amount on line 5 between the estate and trust and the beneficiaries in proportion to the income allocable to each. On line 6, enter the beneficiaries allocated amount.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is: **Recordkeeping**, 5 hr., 44 min.; **Learning about the law or the form**, 1 hr., 37 min.; **Preparing the form**, 3 hr., 39 min.; **Copying, assembling, and sending the form to the IRS**, 32 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

**Low-Income Housing Credit Allocation
and Certification**

OMB No. 1545-0988

Part I Allocation of Credit.

Check if: ☐ Addition to Qualified Basis ☐ Amended Form

A Address of building (do not use P.O. box) (see instructions)

B Name and address of housing credit agency

C Name, address, and TIN of building owner receiving allocation

D Employer identification number of agency

E Building Identification number (BIN)

TIN ▶

1a Date of allocation ▶/...../..... **b** Maximum housing credit dollar amount allowable

1b

2 Maximum applicable credit percentage allowable %

2

3a Maximum qualified basis

3a

b If the eligible basis used in the computation of line 3a was increased, check the applicable box and enter the percentage to which the eligible basis was increased (see instructions)

3b

1 _ _ %

☐ Building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone

☐ Section 42(d)(5)(C) high cost area provisions

4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)

4

%

5 Date building placed in service ▶/...../.....

6 Check the boxes that describe the allocation for the building (check those that apply):

a ☐ Newly constructed and federally subsidized **b** ☐ Newly constructed and **not** federally subsidized **c** ☐ Existing building

d ☐ Sec. 42(e) rehabilitation expenditures federally subsidized **e** ☐ Sec. 42(e) rehabilitation expenditures **not** federally subsidized

f ☐ Not federally subsidized by reason of 40-50 rule under sec. 42(f)(2)(E) **g** ☐ Allocation subject to nonprofit set-aside under sec. 42(h)(5)

Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official

Name (please type or print)

Date

Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

7 Eligible basis of building (see instructions)

7

8a Original qualified basis of the building at close of first year of credit period

8a

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?

☐ Yes ☐ No

9a If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?

☐ Yes ☐ No

b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low income units under section 42(d)(3)(B)? ▶

☐ Yes ☐ No

10 Check the appropriate box for each election:

Caution: Once made, the following elections are irrevocable.

a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶

☐ Yes ☐ No

b Elect **not** to treat large partnership as taxpayer (section 42(j)(5)) ▶

☐ Yes

c Elect minimum set-aside requirement (section 42(g)) (see instructions) ☐ 20-50 ☐ 40-60

☐ 25-60 (N.Y.C. only)

d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)

☐ 15-40

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature

Taxpayer identification number

Date

Name (please type or print)

Tax year

What's New

Buildings located in the Gulf Opportunity (GO) Zone, Rita GO Zone, and Wilma GO Zone and placed in service in 2006, 2007, or 2008 may have an increased eligible basis. A checkbox was added to line 3b to notate when the eligible basis was increased in these circumstances. See Pub. 4492, *Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma*, for a list of the counties and parishes in these specific zones.

For 2006, 2007, and 2008, buildings in the Gulf Opportunity (GO) Zone will use the "national nonmetropolitan median gross income" instead of the "area median gross income" when meeting the minimum set-aside requirements under section 42(g). See *Gulf Opportunity (GO) Zone*, under *Line 10c*, later, for details.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 can be used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 is also used to certify certain information.

Housing credit agency. This is any state or local agency authorized to make low-income housing credit allocations within its jurisdiction.

Building identification number (BIN). This number is assigned by the housing credit agency. The BIN initially assigned to a building must be used for any allocation of credit to the building that requires a separate Form 8609 (see *Multiple Forms 8609* on this page). For example, rehabilitation expenditures treated as a separate new building should not have a separate BIN if the building already has one. Use the number first assigned to the building.

Allocation of credit. For an owner to claim a low-income housing credit on a building (except as explained under *Tax-exempt bonds* later), the housing credit agency must make an allocation of the credit by the close of the calendar year in which the building is placed in service, unless:

1. The allocation is the result of an advance binding commitment by the credit agency made not later than the close of the calendar year in which the building is placed in service (see section 42(h)(1)(C));
2. The allocation relates to an increase in qualified basis (see section 42(h)(1)(D));
3. The allocation is made for a building placed in service no later than the second calendar year following the calendar year in which the allocation is made if the building is part of a project in which the taxpayer's basis is more than 10% of the project's reasonably expected basis as of the end of that second calendar year; or
4. The allocation is made for a project that includes more than one building if:

- a. The allocation is made during the project period,
- b. The allocation applies only to buildings placed in service during or after the calendar year in which the allocation is made, and
- c. The part of the allocation that applies to any building is specified by the end of the calendar year in which the building is placed in service.

See sections 42(h)(1)(E) and 42(h)(1)(F) and Regulations section 1.42-6 for more details.

The agency can only make an allocation to a building located within its geographical jurisdiction. Once an allocation is made, the credit is allowable for all years during the 10-year credit period. A separate Form 8609 must be completed for each building to which an allocation of credit is made.

Multiple Forms 8609. Allocations of credit in separate calendar years require separate Forms 8609. Also, when a building receives separate allocations for acquisition of an existing building and for rehabilitation expenditures, a separate Form 8609 must be completed for each credit allocation.

Tax-exempt bonds. No housing credit allocation is required for any portion of the eligible basis of a qualified low-income building that is financed with tax-exempt bonds taken into account for purposes of the volume cap under section 146. An allocation is not needed when 50% or more of the aggregate basis of the building and the land on which the building is located (defined below) is financed with certain tax-exempt bonds. However, the owner still must get a Form 8609 from the appropriate housing credit agency (with the applicable items completed, including an assigned BIN).

Land on which the building is located. This includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

Filing Requirement

Housing credit agency. Complete and sign Part I of Form 8609 and make copies of the form. Submit a copy with Form 8610, Annual Low-Income Housing Credit Agencies Report, and keep a copy for the records. The agency must send the original, signed Form 8609 (including instructions) to the building owner.

Building owner. You must make a one-time submission of Form 8609 to the Low-Income Housing Credit (LIHC) Unit at the IRS Philadelphia campus. After making a copy of the completed original Form 8609, file the original of the form with the unit no later than the due date (including extensions) of your first tax return with which you are filing Form 8609-A, Annual Statement for Low-Income Housing Credit.

Where to file Form 8609. Send the properly completed and signed form(s) to:

Internal Revenue Service
P.O. Box 331
Attn: LIHC Unit, DP 607 South
Philadelphia Campus
Bensalem, PA 19020

Note. The housing credit agency may require you to submit a copy of Form 8609 with a completed Part II to the agency. You should contact the agency to obtain agency filing requirements.

Also, file Form 8609-A for each year of the 15-year compliance period. The credit is claimed on Form 8586, Low-Income Housing Credit. See the forms for filing instructions.

Building Owner's Recordkeeping

Keep the following items in your records for three years after the due date (including extensions) of the owner's tax return for the tax year that includes the end of the 15-year compliance period.

- A copy of the original Form 8609 received from the housing agency and all related Forms 8609-A (or predecessor Schedules A (Form 8609)), Forms 8586, and any Forms 8611, Recapture of Low-Income Housing Credit.
- If the maximum applicable credit percentage allocated to the building on line 2 reflects an election under section 42(b)(2)(A)(ii), a copy of the election statement.
- If the binding agreement specifying the housing credit dollar amount is contained in a separate document, a copy of the binding agreement.
- If the housing credit dollar amount allocated on line 1b reflects an allocation made under section 42(h)(1)(E) or section 42(h)(1)(F), a copy of the allocation document.

Specific Instructions

Part I—Allocation of Credit

Completed by Housing Credit Agency Only

Addition to qualified basis. Check this box if an allocation relates to an increase in qualified basis under section 42(f)(3). Enter only the housing credit dollar amount for the increase. Do not include any portion of the original qualified basis when determining this amount.

Amended form. Check this box if this form amends a previously issued form. Complete all entries and explain the reason for the amended form. For example, if there is a change in the amount of initial allocation before the close of the calendar year, file an amended Form 8609 instead of the original form.

Item A. Identify the building for which this Form 8609 is issued when there are multiple buildings with the same address (e.g., BLDG. 6 of 8).

Line 1a. Generally, where Form 8609 is the allocating document, the date of the allocation is the date the Form 8609 is completed, signed, and dated by an authorized official of the housing credit agency during the year the building is placed in service.

However, if an allocation is made under section 42(h)(1)(E) or 42(h)(1)(F), the date of allocation is the date the authorized official of the housing credit agency completes, signs, and dates the section 42(h)(1)(E) or 42(h)(1)(F)

document used to make the allocation. If no allocation is required (i.e., 50% or greater tax-exempt bond financed building), leave line 1a blank.

Line 1b. Enter the housing credit dollar amount allocated to the building for each year of the 10-year credit period. The amount should equal the percentage on line 2 multiplied by the amount on line 3a. As the housing credit agency is required to allocate an amount that is only necessary to assure project feasibility, the percentage on line 2 and the amount on line 3a can be adjusted by the housing agency. For tax-exempt bond projects for which no allocation is required, enter the housing credit dollar amount allowable under section 42(h)(4).

Line 2. Enter the maximum applicable credit percentage allowable to the building for the month the building was placed in service or, if applicable, for the month determined under section 42(b)(2)(A)(ii). This percentage may be less than the applicable percentage published by the IRS.

If an election is made under section 42(b)(2)(A)(ii) to use the applicable percentage for a month other than the month in which a building is placed in service, the requirements of Regulations section 1.42-8 must be met. The agency must keep a copy of the binding agreement. The applicable percentage is published monthly in the Internal Revenue Bulletin. For new buildings that are not federally subsidized under section 42(i)(2)(A), use the applicable percentage for the 70% present value credit. For new buildings that are federally subsidized, or existing buildings, use the applicable percentage for the 30% present value credit. See the instructions for line 6 for the definition of "federally subsidized." A taxpayer may elect under section 42(i)(2)(B) to reduce eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation in order to obtain the higher credit percentage.

For allocations to buildings for additions to qualified basis under section 42(f)(3), do not reduce the applicable percentage even though the building owner may only claim a credit based on two-thirds of the credit percentage allocated to the building.

Line 3a. Enter the maximum qualified basis of the building. However, in computing qualified basis, the housing credit agency should use only the amount of eligible basis necessary to result in a qualified basis which, multiplied by the percentage on line 2, equals the credit amount on line 1b. To figure this, multiply the eligible basis of the qualified low-income building by the smaller of:

- The fractional amount of low-income units to all residential rental units (the "unit fraction") or
- The fractional amount of floor space of the low-income units to the floor space of all residential rental units (the "floor space fraction").

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. Section 42(i)(3) provides for certain exceptions (e.g., units that provide for transitional housing for the homeless may qualify as low-income units). See sections 42(i)(3) and 42(c)(1)(E) for more information.

Except as explained in the instructions for line 3b below, the eligible basis for a new building is its adjusted basis as of the close of the first tax year of the credit period. For an existing building, the eligible basis is its acquisition cost plus capital improvements through the close of the first tax year of the credit period. See the instructions for line 3b and section 42(d) for other exceptions and details.

Line 3b. Special rule to increase basis for buildings in certain high-cost areas. If the building is located in a high-cost area (i.e., "qualified census tract," "difficult development area," Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone), the eligible basis may be increased as follows.

- For new buildings, the eligible basis may be up to 130% of such basis determined without this provision.
- For existing buildings, the rehabilitation expenditures under section 42(e) may be up to 130% of the expenditures determined without regard to this provision.

Enter the percentage to which eligible basis was increased. For example, if the eligible basis was increased to 120%, enter "120." See section 42(d)(5)(C) for definitions of a qualified census tract and a difficult development area, and for other details.

Gulf Opportunity (GO) Zone, Rita GO Zone, and Wilma GO Zone. The housing credit agency may increase the eligible basis of buildings placed in service in these specific zones in 2006, 2007, and 2008 under 42(d)(5)(C).

Note. Before increasing eligible basis, the eligible basis must be reduced by any federal subsidy, which the taxpayer elects to exclude from eligible basis, and any federal grant received.

Line 4. Enter the percentage of the aggregate basis of the building and land on which the building is located that is financed by certain tax-exempt bonds. If this amount is zero, enter zero (do not leave this line blank).

Line 5. The placed-in-service date for a residential rental building is the date the first unit in the building is ready and available for occupancy under state or local law. Rehabilitation expenditures treated as a separate new building under section 42(e) are placed in service at the close of any 24-month period over which the expenditures are aggregated, whether or not the building is occupied during the rehabilitation period.

Note. The placed-in-service date for an existing building is determined separately from the placed-in-service date of rehabilitation expenditures treated as a separate new building.

Line 6. Generally, a building is treated as federally subsidized if at any time during the tax year or any prior tax year there is outstanding any tax-exempt bond financing or any below-market federal loan, the proceeds of which are used (directly or indirectly) for the building or its operation.

However, under section 42(i)(2)(E) buildings receiving assistance under the HOME Investment Partnerships Act (as in effect on August 10, 1993) or the Native American Housing Assistance and Self-Determination Act of 1996 (as in effect on October 1, 1997) are not treated as federally subsidized if 40%

or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income (or national nonmetropolitan median gross income, when applicable). Buildings located in New York City receiving this assistance are not treated as federally subsidized if 25% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income.

Not more than 90% of the state housing credit ceiling for any calendar year can be allocated to projects other than projects involving qualified nonprofit organizations. A qualified nonprofit organization must own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period. See section 42(h)(5) for more details.

Generally, no credit is allowable for acquisition of an existing building unless substantial rehabilitation is done. See sections 42(d)(2)(B)(iv) and 42(f)(5). Do not issue Form 8609 for acquisition of an existing building unless substantial rehabilitation under section 42(e) is placed in service.

Part II—First-Year Certification

Completed by Building Owner with respect to the First Year of the Credit Period



By completing Part II, you are certifying the date the building is placed in service corresponds to the date on line 5. If the

Form 8609 issued to you contains the wrong date or no date, obtain a new or amended Form 8609 from the housing credit agency.

Line 7. Enter the eligible basis (in dollars) of the building. Determine eligible basis at the close of the first year of the credit period (see sections 42(f)(1), 42(f)(5), and 42(g)(3)(B)(iii) for determining the start of the credit period).

For new buildings, the eligible basis is generally the cost of construction or rehabilitation expenditures incurred under section 42(e).

For existing buildings, the eligible basis is the cost of acquisition plus rehabilitation expenditures not treated as a separate new building under section 42(e) incurred by the close of the first year of the credit period.

If the housing credit agency has entered an increased percentage in Part I, line 3b, multiply the eligible basis by the increased percentage and enter the result.

Residential rental property may qualify for the credit even though part of the building in which the residential rental units are located is used for commercial use. Do not include the cost of the nonresidential rental property. However, you may generally include the basis of common areas or tenant facilities, such as swimming pools or parking areas, provided there is no separate fee for the use of these facilities and they are made available on a comparable basis to all tenants in the project. You must reduce the eligible basis by the amount of any federal grant received. Also reduce the eligible basis by the entire basis

allocable to non-low-income units that are above average quality standard of the low-income units in the building. You may, however, include a portion of the basis of these non-low-income units if the cost of any of these units does not exceed by more than 15% the average cost of all low-income units in the building, and you elect to exclude this excess cost from the eligible basis by checking the "Yes" box for line 9b. See section 42(d)(3).

You may elect to reduce the eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation to obtain a higher credit percentage. To make this election, check the "Yes" box in Part II, line 9a. Reduce the eligible basis by the principal amount of such loan or obligation proceeds before entering the amount on line 7. You must reduce the eligible basis by the principal amount of such loan or obligation proceeds, or any federal grant received, before multiplying the eligible basis by the increased percentage in Part I, line 3b.

Line 8a. Multiply the eligible basis of the building shown on line 7 by the smaller of the unit fraction or the floor space fraction as of the close of the first year of the credit period and enter the result on line 8a. Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied. See the instructions for Part I, line 3a.

Line 8b. Each building is considered a separate project under section 42(g)(3)(D) unless, before the close of the first calendar year in the project period (defined in section 42(h)(1)(F)(ii)), each building that is (or will be) part of a multiple building project is identified by attaching the statement described below.

Caution: The minimum set-aside requirement (see the instructions for line 10c) is a project-based test.

The statement must be attached to this Form 8609 and include:

- The name and address of the project and each building in the project,
- The BIN of each building in the project,
- The aggregate credit dollar amount for the project, and
- The credit allocated to each building in the project.

Caution: Notwithstanding a checked "Yes" box on line 8b, failure to attach a statement providing the above required information will result in each building being considered a separate project under section 42(g)(3)(D).

Two or more qualified low-income buildings may be included in a multiple building project only if they:

- Are located on the same tract of land, unless all of the dwelling units in all of the buildings being aggregated in the multiple building project are low-income units (see section 42(g)(7)),
- Are owned by the same person for federal tax purposes,
- Are financed under a common plan of financing, and
- Have similarly constructed housing units.

A qualified low-income building includes residential rental property that is an apartment building, a single-family dwelling, a town house, a row house, a duplex, or a condominium.

Line 9a. You may elect to reduce the eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation and claim the 70% present value credit on the remaining eligible basis. However, if you make this election, you may not claim the 30% present value credit on the portion of the basis that was financed with the below-market federal loan or the tax-exempt obligation.

Line 9b. See the instructions for Part II, line 7.

Line 10a. You may elect to begin the credit period in the tax year after the building is placed in service. Once made, the election is irrevocable.

Note. Section 42(g)(3)(B)(iii) provides special rules for determining the start of the credit period for certain multiple building projects.

Line 10b. Partnerships with 35 or more partners are treated as the taxpayer for purposes of recapture unless an election is made not to treat the partnership as the taxpayer. Check the "Yes" box if you do not want the partnership to be treated as the taxpayer for purposes of recapture. Once made, the election is irrevocable.

Line 10c. You must meet the minimum set-aside requirements under section 42(g) for the project by electing one of the following tests.

20-50 Test. 20% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income or

40-60 Test. 40% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income.

Caution: By electing the 20-50 test, the qualifying income limit for all low-income individuals in the project is determined by reference to 50% of area median gross income.

Gulf Opportunity (GO) Zone. For purposes of the 20-50 and 40-60 tests defined above, the "national nonmetropolitan median gross income" will be substituted for the "area median gross income" for all property placed in service during 2006, 2007, or 2008 in a nonmetropolitan area in the Gulf Opportunity (GO) Zone.

Once made, the election is irrevocable.

Note. Owners of buildings in projects located in New York City may not use the 40-60 Test. Instead, they may use the 25-60 Test below.

25-60 Test. 25% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income (see section 142(d)(6)).

Once made, the election is irrevocable.

Caution: The minimum set-aside requirement must be met by the close of the first year of the credit period in order to claim any credit for the first year or for any subsequent years.

Line 10d. The deep rent skewed 15-40 election is not an additional test for satisfying the minimum set-aside requirements of section 42(g). The 15-40 test is an election

that relates to the determination of a low-income tenant's income. Generally, a continuing resident's income may increase up to 140% of the applicable income limit (50% or less or 60% or less of the area median gross income (or national nonmetropolitan median gross income, when applicable) under the minimum set-aside rules in Line 10c earlier). When the deep rent skewed election is made, the income of a continuing resident may increase up to 170% of the applicable income limit. If this election is made, at least 15% of all low-income units in the project must be occupied at all times during the compliance period by tenants whose income is 40% or less of the applicable income limit. A deep rent skewed project itself must meet the requirements of section 142(d)(4)(B). Once made, the election is irrevocable.

Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Sections 42, 6001, and 6011 of the Code require you to provide this information. Section 6109 requires you to provide your taxpayer identifying number (SSN, EIN, or ITIN). We need this information to ensure that you are complying with the revenue laws and to allow us to figure and collect the right amount of tax. We may disclose this information to the Department of Justice for civil or criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information, or providing false information, may subject you to fines or penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file the form will vary depending on individual circumstances. The estimated average time is:

Learning about the law or the form 4 hr., 10 min.
Recordkeeping 9 hr., 5 min.
Preparing and sending the form to the IRS 4 hr., 30 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send the tax form to this office. Instead, see *Filing Requirement* on page 2.

Recapture of Low-Income Housing Credit

► Attach to your return.

Note: Complete a separate Form 8611 for each building to which recapture applies.

OMB No. 1545-1035

Attachment
Sequence No. **90**

A Name(s) shown on return		B Identifying number
C Address of building (as shown on Form 8609)	D Building identification number (BIN)	E Date placed in service (from Form 8609)
F If building is financed in whole or part with tax-exempt bonds, see instructions and furnish: (1) Issuer's name		(2) Date of issue
(3) Name of issue		(4) CUSIP number

Note: Skip lines 1-7 and go to line 8 if recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust).

1 Enter total credits reported on Form 8586 in prior years for this building	1		
2 Credits included on line 1 attributable to additions to qualified basis (see instructions). . .	2		
3 Credits subject to recapture. Subtract line 2 from line 1	3		
4 Credit recapture percentage (see instructions)	4		
5 Accelerated portion of credit. Multiply line 3 by line 4	5		
6 Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions)	6		
7 Amount of accelerated portion recaptured (see instructions if prior recapture on building). Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 16. All other flow-through entities (except electing large partnerships), enter the result here and enter each recipient's share in the appropriate box of Schedule K-1. Generally, flow-through entities other than electing large partnerships will stop here. (Note: An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.)	7		
8 Enter recapture amount from flow-through entity (see Note above)	8		
9 Enter the unused portion of the accelerated amount from line 7 (see instructions)	9		
10 Net recapture. Subtract line 9 from line 7 or line 8. If less than zero, enter -0-	10		
11 Enter interest on the line 10 recapture amount (see instructions)	11		
12 Total amount subject to recapture. Add lines 10 and 11	12		
13 Unused credits attributable to this building reduced by the accelerated portion included on line 9 (see instructions)	13		
14 Recapture tax. Subtract line 13 from line 12. If zero or less, enter -0-. Enter the result here and on the appropriate line of your tax return (see instructions). If more than one Form 8611 is filed, add the line 14 amounts from all forms and enter the total on the appropriate line of your return. Electing large partnerships, see instructions	14		
15 Carryforward of the low-income housing credit attributable to this building. Subtract line 12 from line 13. If zero or less, enter -0- (see instructions)	15		

Only Section 42(j)(5) partnerships need to complete lines 16 and 17.

16 Enter interest on the line 7 recapture amount (see instructions)	16		
17 Total recapture. Add lines 7 and 16 (see instructions)	17		

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Use this form if you must recapture part of the low-income housing credit you claimed in previous years because:

- The qualified basis of a building decreased from one year to the next. The decrease may result from a change in the eligible basis, or the building no longer meets the minimum set-aside requirements of section 42(g)(1), the gross rent requirement of section 42(g)(2), or the other requirements for the units which are set aside.

- You disposed of the building or an ownership interest in it, and you did not post a satisfactory bond or pledge eligible U.S. Treasury securities as collateral. For details on how to avoid recapture on a building disposition, see section 42(j)(6); Form 8693, Low-Income Housing Credit Disposition Bond; and Rev. Proc. 99-11, 1999-2 I.R.B. 14.

Note. If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years under section 42(k) before you calculate the recapture amount on this form.

To complete this form you will need copies of the following forms that you have filed:

- Form 8586, Low-Income Housing Credit (and Form 3800, General Business Credit, if applicable);

- Form 8609, Low-Income Housing Credit Allocation and Certification (or predecessor, Form 8609, Low-Income Housing Credit Allocation Certification);

- Form 8609-A, Annual Statement for Low-Income Housing Credit (or predecessor, Schedule A (Form 8609), Annual Statement); and

- Form 8611.

Note. Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in items C, D, E, and F of Form 8611.

Recapture does not apply if:

- You disposed of the building or an ownership interest in it and you posted a satisfactory bond or pledged eligible U.S. Treasury securities as collateral (for details, see section 42(j)(6); Form 8693; and Rev. Proc. 99-11);

- You disposed of not more than 33 1/3 % in the aggregate of your ownership interest in a building that you held through a partnership, or you disposed of an ownership interest in a building that you held through a partnership to which section 42(j)(5) applies or through an electing large partnership;

- The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service;

- You correct a noncompliance event within a reasonable period after it is discovered or should have been discovered;

- The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

Recordkeeping

In order to verify changes in qualified basis from year to year, keep a copy of all Forms 8586, 8609, 8609-A (or predecessor, Schedule A (Form 8609)), 8611, and 8693 for 3 years after the 15-year compliance period ends.

Specific Instructions

Note. If recapture is passed through from a flow-through entity (partnership, S corporation, estate or trust), skip lines 1-7 and go to line 8.

Item F. If the building is financed with tax-exempt bonds, furnish the following information: (1) name of the entity that issued the bond (not the name of the entity receiving the benefit of the financing); (2) date of issue, generally the first date there is a physical exchange of the bonds for the purchase price; (3) name of the issue, or if not named, other identification of the issue; and (4) CUSIP number of the bond with the latest maturity date. If the issue does not have a CUSIP number, enter "None."

Line 1. Enter the total credits claimed on the building for all prior years from Part I of all Forms 8586 (before reduction due to the tax liability limit) you have filed. Do not include credits taken by a previous owner.

Line 2. Determine the amount to enter on this line by completing a separate Line 2 Worksheet (below) for each prior year for which line 7 of 8609-A (or predecessor, Schedule A (Form 8609)) was completed.

Line 2 Worksheet (*Line reference is to Form 8609-A (or predecessor, Schedule A (Form 8609).)

a Enter the amount from line 10*	a	
b Multiply a by 2	b	
c Enter the amount from line 11*	c	
d Subtract c from b	d	
e Enter decimal amount figured in step 1 of the instructions for line 14*. If line 14* does not apply to you, enter -0-	e	
f Multiply d by e	f	
g Subtract f from d	g	
h Divide line 16* by line 15*. Enter the result here	h	
i Multiply g by h. Enter this amount on line 2. (If more than one worksheet is completed, add the amounts on i from all worksheets and enter the total on line 2.)	i	

Line 4. Enter the credit recapture percentage, expressed as a decimal carried to at least 3 places, from the table below:

IF the recapture event occurs in . . .	THEN enter on line 4 . . .
Years 2 through 11333
Year 12267
Year 13200
Year 14133
Year 15067

Line 6. Enter the percentage decrease in qualified basis during the current year.

For this purpose, figure qualified basis without regard to any additions to qualified basis after the first year of the credit period. Compare any decrease in qualified basis first to additions to qualified basis. Recapture applies only if the decrease in qualified basis exceeds additions to qualified basis after the first year of the credit period.

If you disposed of the building or an ownership interest in it and did not post a bond, you must recapture all of the accelerated portion shown on line 5. Enter 1.000 on line 6.

Note. If the decrease causes the qualified basis to fall below the minimum set-aside requirements of section 42(g)(1) (the 20-50 test or the 40-60 test), then 100% of the amount shown on line 5 must be recaptured. Enter 1.000 on line 6. If you elected the 40-60 test for this building and the decrease causes you to fall below 40%, you cannot switch to the 20-50 test to meet the set-aside requirements. You must recapture the entire amount shown on line 5.

Line 7. If there was a prior recapture of accelerated credits on the building, do not recapture that amount again as the result of the current reduction in qualified basis. The following example demonstrates how to incorporate into the current (Year 4) recapture the first year (Year 1) accelerated portion as a result of a prior year (Year 2) recapture event.

Line 9. Compute the unused portion of the accelerated amount on line 7 by:

Step 1. Totaling the credits attributable to the building that you could not use in prior years.*

Step 2. Reducing the result of step 1 by any unused credits attributable to additions to qualified basis.

Step 3. Multiplying the result of step 2 by the decimal amount on line 4.

Step 4. Multiplying the result of step 3 by the decimal amount on line 6.

Step 5. Enter the result of step 4 on line 9.

*Generally, this is the amount of credit reported on line 1 of this Form 8611 reduced by the total low-income housing credits allowed on Form 8586 or Form 3800 for each year.

Special rule for electing large partnerships. Enter zero on line 9. An electing large partnership is treated as having fully used all prior year credits.

Line 11. Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest must be computed at the overpayment rate determined under section 6621(a)(1) and compounded on a daily basis from the due date (not including extensions) of the return for the prior year until the earlier of (a) the due date (not including extensions) of the return for the recapture year, or (b) the date the return for the recapture year is filed and any income tax due for that year has been fully paid.

Tables of interest factors to compute daily compound interest were published in Rev. Proc. 95-17, 1995-1 C.B. 556. The interest rate in effect through March 31, 2006, is shown in Rev. Rul. 2005-78, 2005-51 I.R.B. 1157. For periods after March 31, 2006, use the overpayment rate under section 6621(a)(1) in the revenue rulings published quarterly in the Internal Revenue Bulletin.

Note. If the line 8 recapture amount is from a section 42(j)(5) partnership, the partnership will figure the interest and include it in the recapture amount reported to you. Enter "-0-" on line 11 and write "Section 42(j)(5)" to the left of the entry space for line 11.

Line 13. Subtract the amount on line 9 from the total of all prior year unused credits attributable to the building (Step 1 of the line 9 instruction above). Enter the result on line 13.

Line 14.

For information on how to report the recapture tax on...

See the instructions for the...

Form 1040

"Total tax" line in the instructions for Form 1040

Form 1120 or 1120-A

"Other taxes" line in the instructions for Forms 1120 and 1120-A

Special rule for electing large

partnerships. Subtract the current year credit shown on line 6 of the 2005 Form 8586 (or line 7 on the 2004 Form 8586, if applicable) from the total of the line 14 amounts from all Forms 8611. Enter the result (but not less than zero) on Form 1065-B, Part I, line 26.

Note. You must also reduce the current year low-income housing credit, before entering it on Schedules K and K-1, by the amount of the reduction to the total of the recapture amounts.

Line 15. Carry forward the low-income housing credit attributable to this building to the next tax year. Report any carryforward on the carryforward line of the Form 3800 for the next tax year. See the instructions for Form 3800 for details on how to report the carryforward of unused credits.

Lines 16 and 17. Only section 42(j)(5) partnerships complete these lines. This is a partnership (other than an electing large partnership) that has at least 35 partners, unless the partnership elects (or has previously elected) not to be treated as a section 42(j)(5) partnership. For purposes of this definition, a husband and wife are treated as one partner.

Line 7—Example. \$2,700 of accelerated portion of low-income housing credit spread over a 10-year period and not falling below the minimum set-asides for the building. Also, there was a 20% reduction in qualified basis in Year 2 and 30% in Year 4.

	Year 1	Year 2	Year 3	Year 4*
Low-income housing credit	\$270	\$216 (\$270 × .8 (20% reduction in qualified basis))	\$270	\$189 (\$270 × .7 (30% reduction in qualified basis))
Recapture of Year 1 low-income housing credit		\$18 (\$270 × .333 × .2 (20% reduction in qualified basis))		\$9 (\$27 (\$270 × .333 × .3 (30% reduction in qualified basis) minus \$18 Year 2 recapture))

* You will have to complete the rest of the form to figure the recapture as the result of the current year reduction in basis as it affects the Year 2 and Year 3 credit.

For purposes of determining the credit recapture amount, a section 42(j)(5) partnership is treated as the taxpayer to which the low-income housing credit was allowed and as if the amount of credit allowed was the entire amount allowable under section 42(a).

See the instructions for line 11 to figure the interest on line 16. The partnership must attach Form 8611 to its Form 1065 and allocate this amount to each partner on Schedule K-1 (Form 1065) in the same manner as the partnership's taxable income is allocated to each partner.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of

the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping 8 hr., 21 min.

Learning about the law or the form 1 hr.

Preparing and sending the form to the IRS . . . 1 hr., 10 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the IRS at the address listed in the instructions for the tax return with which this form is filed.



Low-Income Housing Credit Disposition Bond
(For use by taxpayers posting bond under section 42(j)(6))

OMB No. 1545-1029

Attachment
Sequence No. **91**

Attach to your return after receiving IRS approval.

Name of taxpayer making disposition

Identifying number

Part I Bonding

1 Address of building as shown on Form 8609 (do not use P.O. box)

2 Building identification number

3 Date the 15-year compliance period ends

4 Check the box that applies:

5 Date property
interest disposed of

6 Date bond issued

This is an ☐ original bond, ☐ strengthening bond, or ☐ superseding bond.

7a Bond is given by

Principal

Telephone number (optional)

Address

as principal and

Surety

as surety or sureties.

Address

7b As principal and surety, we are obligated to the United States in the amount of \$. We also jointly and severally obligate our heirs, executors, administrators, successors, and assigns for the payment of this amount.

Part II Signatures

Under penalties of perjury, I declare that I have examined this form and any accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of principal

Name (please print)

Date

Signature of principal

Name (please print)

Date

Signature of surety

Name and identifying number (please print)

Date

Signature of surety

Name and identifying number (please print)

Date

Part III Certificate of Corporate Principal (corporations only)

I certify that the person above, who signed on behalf of the principal, was an authorized representative of the corporation.

Signature of secretary of the corporation

Name (please print)

Date

Part IV Approval by IRS (See instructions.)

Bond approved

Date

Internal Revenue Service official

General Instructions

Section references are to the Internal Revenue Code.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control

number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 13 min.

Learning about the law or the form 14 min.

Preparing, copying, assembling, and sending the form to the IRS. 40 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send Form 8693 to this address. Instead, see **When and Where To File** on page 2.

Purpose of Form

Use Form 8693 to post a bond under section 42(j)(6) to avoid recapture of the low-income housing credit.

The bond ensures payment of the recapture tax imposed under section 42(j). The conditions of the bond are that the principal (i.e., taxpayer):

- Does not attempt to defraud the United States of any tax under section 42(j);
- Files all returns and statements as required by law or regulations;
- Pays all taxes including any penalties and interest charges; and
- Complies with all other requirements of the law and regulations under section 42.

Qualifying Sureties

The company acting as surety must hold a Certificate of Authority from the Department of the Treasury, Financial Management Service. These companies are listed in Treasury Circular 570. You may get a copy of this circular by writing to the Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Hwy., Hyattsville, MD 20782, or by calling (202) 874-6850 (not a toll-free number).

A taxpayer may not be a surety for itself, nor may a member of a firm or a partner in a partnership be a surety for the firm or partnership of which he or she is a member or a partner.

Surety Termination

If a surety's certificate of authority is terminated, the surety may be relieved of liability under the bond provided it notifies the principal and the IRS by the date the termination announcement is published in the Federal Register. The notice must be sent by certified mail and must state that the principal has 60 days from the date the termination announcement is published in the Federal Register to get an adequate strengthening or superseding bond with another surety listed in Treasury Circular 570. If notice is given, the principal's rights under the bond will end 60 days after the date the termination announcement is published in the Federal Register.

A qualified surety (or coinsuring surety) may terminate its liability on a bond only if the surety notifies the principal and the IRS at least 60 days before the date the surety wants to terminate its liability. The notice must state that the principal has 60 days from the termination date to obtain an adequate superseding or strengthening bond from another qualified surety (or coinsuring surety).

If the surety does not provide this notice, it remains liable for the amount posted on the bond. If the surety gives notice but does not meet the 60-day notification requirement or fails to include a termination date in the notice, the surety's liability will terminate 60 days after the postmark date on the notice.

Send the IRS copy of the notice to the Internal Revenue Service Center, Philadelphia, PA 19255.

If the principal fails to post a strengthening or superseding bond within 60 days from the date (a) the termination announcement is published in the Federal Register or (b) on which a surety's liability on a bond terminates, recapture under section 42(j) is required.

Period of Bond

The liability stated on the bond must be for the period of years remaining in the 15-year compliance period of the building plus an additional 58 months. The compliance period begins with the tax year the building was placed in service or the succeeding tax year if the election under section 42(f)(1) is made.

Recordkeeping

Keep a copy of this Form 8693 together with all Forms 8586, 8609, Schedule(s) A (Form 8609), and 8611 for 58 months after the 15-year compliance period ends.

Who Must File

Taxpayers who claimed a low-income housing credit on a residential rental building and later (in a tax year during the 15-year compliance period) disposed of the building or an ownership interest in it must file this form to avoid recapture of the credit claimed. A de minimis rule may apply to certain dispositions of interests in partnerships that own buildings in which a credit was claimed. See Rev. Rul. 90-60, 1990-2 C.B. 3, for additional information.

Partnerships

Section 42(j)(5) partnerships.—Any person holding a power of attorney in a section 42(j)(5) partnership (a partnership with 35 or more partners that has not elected out of the section 42(j)(5) provisions) may post bond as principal on behalf of the partnership. A bond posted on behalf of a partnership must be posted in the partnership's name, with the name of the authorized representative of the partnership posting the bond appearing immediately below the partnership's name.

Partnerships that elected out of the section 42(j)(5) provisions or have fewer than 35 partners.—If partners in partnerships to which section 42(j)(5) does not apply want to post bond, the partners must post bond in their individual capacity as principals.

When and Where To File

Submit the original and one copy of Form 8693 to the Internal Revenue Service Center, Philadelphia, PA 19255, within 60 days after the date of disposition of the building or interest therein. The completed form may be submitted by either the taxpayer or the surety.

When the IRS returns a copy of the approved form, attach a copy of it to your income tax return for the year in which the disposition occurred. Write "FORM 8693 ATTACHED" to the left of the entry space on your income tax return for reporting the recapture of the low-income housing credit.

Specific Instructions

Line 2. Building Identification Number (BIN).

—This is the number assigned to the building by the housing credit agency on Part I, item E, of Form 8609, Low-Income Housing Credit Allocation Certification.

Line 7b. Amount of Bond.—Use the worksheet below to calculate the bond amount. See Rev. Rul. 90-60 for additional information on the methodology for determining the bond amount.

If the amount is not an even multiple of \$100, increase the bond amount to the next higher multiple of \$100.

Part III. Certificate of Corporate Principal.

—If the principal is a corporation, the authority of the person posting the bond must be certified by the secretary of the corporation by completing Part III. Or the corporation may attach copies of records that will show the authority of the officer signing if the copies are certified by the secretary to be true copies.

Part IV. Approval by the IRS.—The IRS will notify you of the approval or rejection of the bond. If approved, the IRS will send a copy of the approved Form 8693 to the principal shown in Part I. If rejected, the owner must recapture the allowed low-income housing credit. Use Form 8611, Recapture of Low-Income Housing Credit.

Worksheet for Computing Bond Amount

1 Total credits taken by you in previous years and any additional credits you anticipate claiming for any year or portion thereof preceding the date of disposition	\$
2 Bond factor amount	%
3 Percentage of taxpayer's total interest in the qualified low-income building disposed of	%
4 Bond amount required to be posted (line 1 × line 2 × line 3). Enter here and on line 7b	\$

Instructions for Worksheet

Line 1.—Enter the total amount of the credits claimed on the building. See Part I of Forms 8586 you have filed. Include any additional credits you anticipate claiming for any period preceding the date of disposition. Do not include credit amounts previously recaptured, credit amounts for which a bond was previously posted, or credits claimed on additions to qualified basis as determined under section 42(f)(3).

Line 2. Bond Factor Amount.—Enter the bond factor amount corresponding to the month in the compliance period in which the disposition occurred and the first year of the building's credit period. The IRS announces the monthly bond factor amounts quarterly in a revenue ruling published in the Internal Revenue Bulletin.

Line 3.—Enter the ownership interest in the qualified low-income building that you have disposed of. Include ownership interests held both directly and indirectly (e.g., through a partnership).



Low-Income Housing Credit Agencies
Report of Noncompliance or Building Disposition

Note: File a separate Form 8823 for each building that is disposed of or goes out of compliance.

OMB No. 1545-1204

Check here if this is an amended return ☐

1 Building name (if any). Check if item 1 differs from Form 8609 ☐

Street address

City or town, state, and ZIP code

2 Building identification number (BIN)

3 Owner's name. Check if item 3 differs from Form 8609 ☐

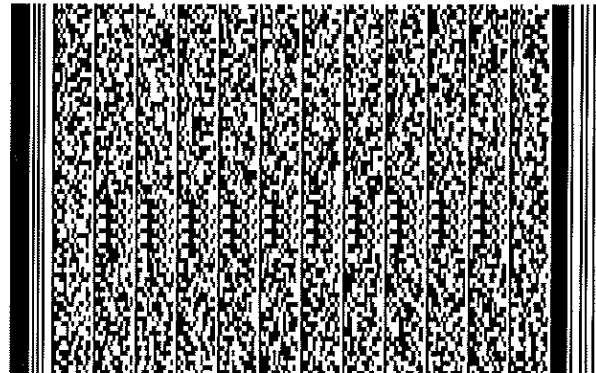
Street address

City or town, state, and ZIP code

4 Owner's taxpayer identification number

☐ EIN ☐ SSN

IRS Use Only



5 Total credit allocated to this BIN \$

6 If this building is part of a multiple building project, enter the number of buildings in the project

7 a Total number of residential units in this building

b Total number of low-income units in this building

c Total number of residential units in this building determined to have noncompliance issues

d Total number of units reviewed by agency (see instructions)

8 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY)

9 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY)

10 Check this box if you are filing only to show correction of a previously reported noncompliance problem ☐

11 Check the box(es) that apply:

a Household income above income limit upon initial occupancy ☐ Out of compliance ☐ Noncompliance corrected

b Owner failed to correctly complete or document tenant's annual income recertification ☐ ☐

c Violation(s) of the UPCS or local inspection standards (see instructions) (attach explanation) ☐ ☐

d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications ☐ ☐

e Changes in Eligible Basis or the Applicable Percentage (see instructions) ☐ ☐

f Project failed to meet minimum set-aside requirement (20/50, 40/60 test) (see instructions) ☐ ☐

g Gross rent(s) exceed tax credit limits ☐ ☐

h Project not available to the general public (see instructions) (attach explanation). ☐ ☐

i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii) ☐ ☐

j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix) ☐ ☐

k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J) ☐ ☐

l Low-income units occupied by nonqualified full-time students ☐ ☐

m Owner did not properly calculate utility allowance ☐ ☐

n Owner has failed to respond to agency requests for monitoring reviews ☐ ☐

o Low-income units used on a transient basis (attach explanation) ☐ ☐

p Project is no longer in compliance nor participating in the section 42 program (attach explanation) ☐ ☐

q Other noncompliance issues (attach explanation) ☐ ☐

12 Additional information for any item above. Attach explanation and check box ☐

13 a Building disposition by ☐ Sale ☐ Foreclosure ☐ Destruction ☐ Other (attach explanation)

b Date of disposition (MMDDYYYY)

c New Owner's Name

Street address

City or town, state, and ZIP code

d New owner's taxpayer identification number

☐ EIN ☐ SSN

14 Name of contact person

15 Telephone number of contact person

() Ext.

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of authorizing official

Print name and title

Date (MMDDYYYY)

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Housing credit agencies use Form 8823 to fulfill their responsibility under section 42(m)(1)(B)(iii) to notify the IRS of noncompliance with the low-income housing tax credit provisions or any building disposition.

The housing credit agency should also give a copy of Form 8823 to the owner(s).

Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building was disposed of or is not in compliance with the provisions of section 42 must file Form 8823.

When To File

File Form 8823 no later than 45 days after (a) the building was disposed of or (b) the end of the time allowed the building owner to correct the condition(s) that caused noncompliance. For details, see Regulations section 1.42-5(e).

Where To File

File Form 8823 with the:
Internal Revenue Service
P.O. Box 331
Attn: LIHC Unit, DP 607 South
Philadelphia Campus
Bensalem, PA 19020

Specific Instructions

Amended return. If you are filing an amended return to correct previously reported information, check the box at the top of page 1.

Item 2. Enter the building identification number (BIN) assigned to the building by the housing credit agency as shown on Form 8609.

Items 3, 4, 13b, and 13d. If there is more than one owner (other than as a member of a pass-through entity), attach a schedule listing the owners, their addresses, and their taxpayer identification numbers. Indicate whether each owner's taxpayer identification number is an employer identification number (EIN) or a social security number (SSN).

Both the EIN and the SSN have nine digits. An EIN has two digits, a hyphen, and seven digits. An SSN has three digits, a hyphen, two digits, a hyphen, and four digits and is issued only to individuals.

Item 7d. "Reviewed by agency" includes physical inspection of the property, tenant file inspection, or review of documentation submitted by the owner.

Item 8. Enter the date that the building ceased to comply with the low-income housing credit provisions. If there are multiple noncompliance issues, enter the

date for the earliest discovered issue. **Do not** complete item 8 for a building disposition. Instead, skip items 9 through 12, and complete item 13.

Item 9. Enter the date that the noncompliance issue was corrected. If there are multiple issues, enter the date the last correction was made.

Item 10. Do not check this box unless the sole reason for filing the form is to indicate that previously reported noncompliance problems have been corrected.

Item 11c. Housing credit agencies must use either (a) the local health, safety, and building codes (or other habitability standards) or (b) the Uniform Physical Conditions Standards (UPCS) (24 C.F.R. section 5.703) to inspect the project, but not in combination. The UPCS does not supersede or preempt local codes. Thus, if a housing credit agency using the UPCS becomes aware of any violation of local codes, the agency must report the violation. Attach a statement describing either (a) the deficiency and its severity under the UPCS, i.e., minor (level 1), major (level 2), and severe (level 3) or (b) the health, safety, or building violation under the local codes. The Department of Housing and Urban Development's Real Estate Assessment Center has developed a comprehensive description of the types and severities of deficiencies entitled "Dictionary of Deficiency Definitions" found at www.hud.gov/reac under Library Section, Physical Inspections, Training Materials. Under Regulations section 1.42-5(e)(3), report all deficiencies to the IRS whether or not the noncompliance or failure to certify is corrected at the time of inspection. In using the UPCS inspection standards, report all deficiencies in the five major inspectable areas (defined below) of the project: (1) Site; (2) Building exterior; (3) Building systems; (4) Dwelling units; and (5) Common areas.

1. Site. The site components, such as fencing and retaining walls, grounds, lighting, mailboxes, signs (such as those identifying the project or areas of the project), parking lots/driveways, play areas and equipment, refuse disposal equipment, roads, storm drainage, and walkways, must be free of health and safety hazards and be in good repair. The site must not be subject to material adverse conditions, such as abandoned vehicles, dangerous walkways or steps, poor drainage, septic tank back-ups, sewer hazards, excess accumulation of garbage and debris, vermin or rodent infestation, or fire hazards.

2. Building exterior. Each building on the site must be structurally sound, secure, habitable, and in good repair. Each building's doors, fire escapes, foundations, lighting, roofs, walls, and windows, where applicable, must be free of health and safety hazards, operable, and in good repair.

3. Building systems. Each building's domestic water, electrical system, elevators, emergency power, fire protection, HVAC, and sanitary system must be free of health and safety hazards, functionally adequate, operable, and in good repair.

4. Dwelling units. Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit (for example, the unit's bathroom, call-for-aid (if applicable), ceilings, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls, and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair. Where applicable, the dwelling unit must have hot and cold running water, including an adequate source of potable water (note: single room occupancy units need not contain water facilities). If the dwelling unit includes its own bathroom, it must be in proper operating condition, usable in privacy, and adequate for personal hygiene and the disposal of human waste. The dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit.

5. Common areas. The common areas must be structurally sound, secure, and functionally adequate for the purposes intended. The basement, garage/carport, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls/corridors, stairs, kitchens, laundry rooms, office, porch, patio, balcony, and trash collection areas, if applicable, must be free of health and safety hazards, operable, and in good repair. All common area ceilings, doors, floors, HVAC, lighting, outlets/switches, smoke detectors, stairs, walls, and windows, to the extent applicable, must be free of health and safety hazards, operable, and in good repair.

Health and Safety Hazards. All areas and components of the housing must be free of health and safety hazards. These include, but are not limited to: air quality, electrical hazards, elevators, emergency/fire exits, flammable materials, garbage and debris, handrail hazards, infestation, and lead-based paint. For example, the buildings must have fire exits that are not blocked and have hand rails that are not damaged, loose, missing portions, or otherwise unusable. The housing must have no evidence of infestation by rats, mice, or other vermin. The housing must have no evidence of electrical hazards, natural hazards, or fire hazards. The dwelling units and common areas must have proper ventilation and be free of mold as well as odor (e.g., propane, natural, sewer, or methane gas). The housing must comply with all requirements related to the evaluation and reduction of lead-based paint hazards and have available proper certifications of such (see 24 C.F.R. part 35).

Project owners must promptly correct exigent and fire safety hazards. Before leaving the project, the inspector should provide the project owner with a list of all observed exigent and fire safety hazards. Exigent health and safety hazards include: air quality problems such as propane, natural gas, or methane gas detected; electrical hazards such as exposed wires or

open panels and water leaks on or near electrical equipment; emergency equipment, fire exits, and fire escapes that are blocked or not usable; and carbon monoxide hazards such as gas or hot water heaters with missing or misaligned chimneys. Fire safety hazards include missing or inoperative smoke detectors (including missing batteries), expired fire extinguishers, and window security bars preventing egress from a unit.

Item 11d. Report the failure to provide annual certifications or the provision of certifications that are known to be incomplete or inaccurate as required by Regulations section 1.42-5(c). As examples, report a failure by the owner to include a statement summarizing violations (or copies of the violation reports) of local health, safety, or building codes; report an owner who provided inaccurate or incomplete statements concerning corrections of these violations.

Item 11e. Report any federal grant made with respect to any building or the operation thereof during any taxable year in the compliance period. Report changes in common areas which become commercial, when fees are charged for facilities, etc. In addition, report any below market federal loan or any obligation the interest on which is exempt from tax under section 103 that is or was used (directly or indirectly) with respect to the building or its operation during the compliance period and that was not taken into account when determining eligible basis at the close of the first year of the credit period.

Item 11f. Failure to satisfy the minimum set-aside requirement for the first year of the credit period results in the permanent loss of the entire credit.

Failure to maintain the minimum set-aside requirement for any year after the first year of the credit period results in recapture of previously claimed credit and no allowable credit for that tax year. No low-income housing credit is allowable until the minimum set-aside is restored for a subsequent tax year.

Item 11h. All units in the building must be for use by the general public (as defined in Regulations section 1.42-9), including the requirement that no finding of discrimination under the Fair Housing Act occurred for the building. Low-income housing credit properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. It prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C. sections 3601 through 3619.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of low-income housing credit properties to comply with the requirements of the Fair Housing Act

will result in the denial of the low-income housing tax credit on a per-unit basis.

Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual from HUD by calling 1-800-245-2691 and requesting item number HUD 11112, or they can order the manual through www.huduser.org under Publications.

Item 11i. The owner must rent to low-income tenants all comparable units that are available or that subsequently become available in the same building in order to continue treating the over-income unit(s) as a low-income unit. All units affected by a violation of the available unit rule may not be included in qualified basis. When the percentage of low-income units in a building again equals the percentage of low-income units on which the credit is based, the full availability of the credit is restored. Thus, only check the "Noncompliance corrected" box when the percentage of low-income units in the building equals the percentage on which the credit is based.

Item 11q. Check this box for noncompliance events other than those listed in 11a through 11p. Attach an explanation. For projects with allocations from the nonprofit set-aside under section 42(h)(5), report the lack of material participation by a non-profit organization (i.e., regular, continuous, and substantial involvement) that the housing credit agency learns of during the compliance period.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 7 hr., 39 min.

Learning about the law or the form 3 hr., 16 min.

Preparing and sending the form to the IRS 3 hr., 32 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW, IR-6406, Washington, DC 20224. Do not send Form 8823 to this address. Instead, see Where To File on page 2.



**Request for Waiver of Annual Income Recertification
Requirement for the Low-Income Housing Credit**

► See instructions on back.

OMB No. 1545-1882

Note: To be used only for 100% low-income buildings.

Part I Certification (Note: The building owner must also complete Part II on page 3.)

Name of building or project	Name of building owner
Street address of building or project	Street address of building owner
City, state, and ZIP code	City, state, and ZIP code
Building identification number (BIN)	Taxpayer identification number

As the building owner, I certify that:

- I am applying for the annual income recertification waiver provided for in section 42(g)(8)(B);
- Each building listed on this form, and in any attached statement, is a 100% low-income building (see **Who May File** on page 2 for the meaning of 100% low-income building); and
- I have read and understand the **Effects of Obtaining a Waiver** in the instructions on page 2.

Under penalties of perjury, I declare that the foregoing statements and information are true, correct, and complete to the best of my knowledge and belief.

Signature of building owner	Title	Date
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Type or print name	Telephone number
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Additional BINs (continue in same format on an attached statement if necessary)

Attestation and Exemption by Housing Credit Agency

As an authorized official of the housing credit agency named below, I certify that:

- The agency is responsible for the monitoring of each building to which this waiver request applies;
- Each building listed on this form, and in any attached statement, was a 100% low-income building at the end of the most recent credit year for the building; and
- The agency exempts the building owner from annual income recertifications as provided in Rev. Proc. 2004-38, effective on the date of IRS approval of the waiver.

Under penalties of perjury, I declare that the foregoing statements and information are true, correct, and complete to the best of my knowledge and belief.

Name of housing credit agency	Signature of authorized official
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Date	Name (please type or print)
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IRS APPROVAL—IRS Use Only

Signature of authorized official	Title	Effective date of waiver
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Owners of certain low-income housing buildings use Form 8877 to request the annual income recertification waiver provided for in section 42(g)(8)(B). See Rev. Proc. 2004-38, 2004-27 I.R.B., for more information on obtaining the waiver. You can find Rev. Proc. 2004-38 at www.irs.gov/pub/irs-irbs/irb04-27.pdf.

Who May File

The owner of a 100% low-income building may request the waiver. A 100% low-income building is a building entirely occupied by low-income tenants, who are individuals occupying a rent-restricted unit in a qualified low-income housing project whose combined income satisfies the section 42(g)(1) income limitation elected by the owner.

How To File

Owners must complete and sign Part I, Certification, and have the housing credit agency responsible for monitoring the building(s) (compliance monitoring agency) sign that part. The owner must also complete, sign Part II, Consent of Disclosure to Monitoring Agency, and send the completed Form 8877 to the Internal Revenue Service (IRS). The IRS will not consider an owner's request unless both Parts I and II of Form 8877 are properly completed.

Where To File

File Form 8877 with:

Internal Revenue Service
P.O. Box 331
Attn: LIHC Unit, DP 607 South
Philadelphia Campus
Bensalem, PA 19020

Determination

The IRS will notify the owner by mail that the request for waiver has been approved or denied. If the request is approved, the IRS will mail the owner a copy of the approved Form 8877. The waiver takes effect on the date that the IRS approves the waiver.

Note: Keep a copy of the approved Form 8877 for the building's records. It must remain a part of the building's records regardless of any ownership transfer.

Effects of Obtaining a Waiver

The following apply to a building on which a waiver is in effect.

1. Records. While a waiver is in effect, the owner is exempt from the recertification requirements of Regulations sections 1.42-5(b)(1)(iv) and (vii) and 1.42-5(c)(1)(iii) for each building to which the waiver applies. Thus, the owner is not required to keep records that show an annual income recertification for all the low-income tenants in the building who have previously had their annual income verified, documented, and certified; maintain documentation to support that recertification; or certify to the compliance monitoring agency that it has received this information. Having a waiver in effect, however, does not relieve the owner of having to produce documentation in support of the requirements of section 42, including keeping records and documentation that show each tenant's annual income upon the tenant's initial occupancy of any unit in the building and, except for the exempted recertification requirements, satisfying the compliance monitoring procedure adopted by the compliance monitoring agency.

2. Effective Period of Waiver. The waiver takes effect on the date the IRS approves the waiver. It remains in effect until the end of the 15-year compliance period (defined in section 42(i)(1)), unless the waiver is revoked, in which case it ceases to be in effect on the date of revocation.

3. Revocation. The IRS may revoke the waiver if the building ceases to be a 100% low-income building or if the IRS determines that the owner has violated section 42 in a manner that is sufficiently serious to warrant revocation.

The IRS will revoke the waiver if the compliance monitoring agency requests its revocation. To request revocation of a waiver, the compliance monitoring agency must send a letter to the IRS requesting that the waiver be revoked. The request must include the following information: (1) the name and address of the compliance

monitoring agency; (2) the name and telephone number of the agency official familiar with the facts of the request whom the IRS may contact; (3) the name, address, and building identification number(s) of the building(s) or project; (4) the name, address, and taxpayer identification number of the building owner; and (5) a statement explaining why the waiver should be revoked. The request should be sent to the address for filing Form 8877 and a copy of the request must be provided to the building owner. The compliance monitoring agency and building owner will be notified by mail when the IRS revokes the waiver.

A change in the ownership of the building for federal tax purposes (including a change resulting from the termination of a partnership under section 708) will cause the waiver to be revoked automatically as of the change in ownership. The new owner may apply for a waiver. In the case of such an automatic revocation, the building owner that received the waiver must notify the IRS of the revocation no later than 60 days after the automatic revocation occurs. The notification should be sent to the address for filing Form 8877 and include the following information: (1) the name, address and building identification number(s) of the building(s) or project; (2) the name, address and taxpayer identification number of the building owner; (3) the date of the automatic revocation; and (4) an explanation of the event that caused the automatic revocation. After receiving the notification of an automatic revocation, the IRS will notify the compliance monitoring agency.

4. Consent of Disclosure. In applying for the waiver, the owner must consent to disclosure by the IRS to the compliance monitoring agency of any revocation of the waiver. This consent of disclosure is effective beginning on the date the waiver takes effect and ending on the date that the compliance period of the building(s) ends, unless the waiver is revoked, in which case the consent ends immediately following the disclosure by the IRS of the revocation to the compliance monitoring agency.

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to ensure you are complying with these laws and to allow us to figure and collect the right amount of tax. Sections 6001, 6011 and 6012(a) require you to provide the requested information for purposes of requesting the waiver of the annual income recertification under section 42(g)(8)(B). Section 6109 requires you to provide your social security number or other identifying number. Routine uses of this information include disclosing it to the Department of Justice for civil and criminal litigation and to other federal agencies, as provided by law. We may disclose the information to cities, states, the District of Columbia, and U.S. Commonwealths or possessions to administer their tax laws. We may also disclose this information to other countries under a tax treaty, or to federal and state agencies to enforce federal nontax criminal laws and to combat terrorism. If you do not file this information, or provide incomplete or fraudulent information, you may not obtain the relief requested and may be subject to interest, penalties, and/or criminal prosecution.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	5 hr., 15 min.
Learning about the law or the form	1 hr., 17 min.
Preparing, copying, assembling, and sending the form to the IRS	1 hr., 25 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send Form 8877 to this address. Instead, see *Where To File* on this page.

Part II Consent of Disclosure to Monitoring Agency

Name of building or project	Name of building owner
Street address of building or project	Street address of owner
City, state, and ZIP code	City, state, and ZIP code
Building Identification number (BIN)	Taxpayer Identification number

I am a building owner applying for the annual income recertification waiver provided for in section 42(g)(8)(B) for the building(s) with the building identification number(s) set forth in this consent. The waiver takes effect on the date that the waiver is approved by the IRS. If the IRS grants the waiver and then the waiver is revoked, I consent to the IRS disclosing the revocation to the compliance monitoring agency responsible for monitoring the building(s) (compliance monitoring agency). This consent is effective from the date the waiver takes effect to the date that the compliance period of the building(s) ends, unless the waiver is revoked, in which case the consent is terminated immediately following the disclosure by the IRS of the revocation to the compliance monitoring agency.

Signature of building owner	Title	Date
Type or print name	Telephone number	

Additional BINs (continue in same format on an attached statement if necessary)
